

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

JOSE RAFAEL NUNEZ,)	
)	
Plaintiff, pro se,)	
)	ORDER
v.)	
)	1:09CV650
UNITED STATES OF AMERICA,)	
)	
Defendant.)	

On August 31, 2009, in accordance with 28 U.S.C. § 636(b), the Recommendation of the United States Magistrate Judge was filed, and notice was served on Plaintiff, and a copy was given to the court.

Within the time limitation set forth in the statute, Plaintiff objected to the Recommendation.

The court has appropriately reviewed the portions of the Magistrate Judge's report to which objection was made and has made a de novo determination which is in accord with the Magistrate Judge's report. The court hereby adopts the Magistrate Judge's Recommendation.

IT IS THEREFORE ORDERED that this action be dismissed *sua sponte* without prejudice to Plaintiff filing a civil complaint, on the proper Motion for Return of Property forms, which correct the defects cited in the Recommendation. A judgment dismissing this action will be entered

contemporaneously with this Order.

This the 29th day of March, 2011.

/s/ N. Carlton Tilley, Jr. _____
Senior United States District Judge